



Interim
Deputy
Commissioner
Joseph McDermott

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MMA Highlights DLS Developments

On Friday, January 23rd, Secretary of Administration and Finance Kristen Lepore announced that Sean Cronin, Deputy Town Administrator in Brookline, has been selected to head up the Department of Revenue's Division of Local Services as Senior Deputy Commissioner of Local Services. The announcement was made at the Massachusetts Municipal Association's Annual Meeting & Trade Show in Boston.

Sean has already begun transitioning to DLS, joining Secretary Lepore and DLS Municipal Finance Law Bureau Chief Kathleen Colleary and Bureau of Municipal Data Management and Technical Assistance Chief Rick Kinglsey at the Division's "Best Practices in Municipal Finance and Administration" workshop. He's also met with senior staff in our Boston office and plans to continue his outreach across the state in the coming weeks. I want to welcome Sean to the Department of Revenue and wish him all the best in his new position. To view the full announcement and to learn more about Sean Cronin, please click [here](#).

In related news, earlier in the day at the MMA conference, Governor Baker announced the issuance of his first executive order. It focuses on strengthening the relationship between state and municipal government. The order "restructures the Department of Revenue to include a new Senior Commissioner for the Division of Local Services" and calls for the creation of a "Community Compact Cabinet that will

work toward mutual accountability, work to reduce red tape, promote best practices, and develop specific 'community compacts' with local governments." To read the order in its entirety, click [here](#).

Finally, I would like to thank DOR Commissioner Amy Pitter and the entire DLS staff for their support during my time as Interim Deputy Commissioner and Director of Municipal Affairs. I will always remember and appreciate the professionalism and commitment to public service exhibited both by our staff and those in municipal government. I'm grateful to have received the opportunity to work closely with our partners in the cities, towns and districts across the Commonwealth. Thank you.

Joe McDermott
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Numbers Show FY15 TAP a Success

Bob Bliss - Director of Strategic Planning and Regional Manager

Nearly a year ago, DLS formed a data review committee to examine the FY14 tax rate setting season. After looking at many data sets, one stood out - of the 338 tax rates set before Dec. 31st, 2013, 219 had been approved in the month of December alone.

Approving tax rates is at the core of the DLS mission to assist the Commonwealth's 351 cities and towns and two additional special taxing districts, yet the majority of tax rates were approved in a single month, which is itself shortened due to year-end holiday celebrations.

This did not seem the most rational or efficient process, even if it was one of long standing.

In an effort to push back against this practice, DLS conceived a pilot, the Taxpayer Assistance Program, or TAP, named both to highlight the DLS advice and guidance that cities can tap into and to emphasize that a thorough review of local finances prior to setting a tax rate best serves local property taxpayers.

Thirteen communities answered the DLS call for participants in the pilot. Hanover, Heath, Pepperell and Revere were in their triennial property valuation certification years, while Becket, Chelsea, Dartmouth, East Bridgewater, Egremont, Newburyport, Royalston, Tewksbury and Worcester were in interim certification years. These

communities presented a wide geographic and population range, and were scattered across the length and breadth of the state. We at DLS thank them for their willingness to volunteer.

I am pleased to report that the TAP pilot was largely successful. Communities were asked to set their tax rates before the end of November, and nine of the 13 (Becket, Chelsea, Dartmouth, East Bridgewater, Egremont, Newburyport, Pepperell, Revere and Tewksbury) succeeded.

DLS also tracked how the 13 communities performed in comparison to their most recent experience as a certification or interim year community; all four of the certification communities produced a tax rate earlier, while seven of the nine interim year communities came in earlier. The two interim year communities that did not come in earlier were four and six days later, each.

In a few instances, TAP communities vastly improved their tax rate setting performance. East Bridgewater, the first to set a tax rate, was 78 days ahead of its prior, similar tax-rate submission; Heath was 184 days ahead of its prior, similar submission; Egremont was 53 days ahead of its prior, similar submission; Chelsea was 23 days ahead; Pepperell was 25 days ahead; Tewksbury was 44 days ahead; and Royalston, which was the only community to set its rate in January, 2015, was still 50 days ahead of its prior similar submission.

I want to emphasize that credit for this performance is entirely in the hands of the local officials who signed up their communities for TAP. DLS offered no special incentives or shortcuts. It was the communities themselves that recognized the advantages of setting a tax rate earlier rather than waiting for the last minute, and then followed through on their TAP workplans.

The development of a tax rate setting workplan (to view a sample workplan [click here](#)) was the critical piece of TAP. DLS field representatives from the Bureau of Local Assessment and the Bureau of Accounts held a meeting in each TAP community in May or June of last year to facilitate the creation of a workplan that set critical date markers for completion of tasks leading up to the setting of a tax rate. Attending those meetings were assessors, accountants, directors of finance, collectors, town managers or chairmen of select boards. Each community chose its attendees and plugged dates into its workplan.

In some communities, the town administrator, assessor and accountant were the sole attendees. In other communities, a larger number of officials - town administrator, assessor, accountant, treasurer, collector,

perhaps a selectman - sat in on the workplan development meeting.

For some of the TAP communities, this might have been one of the first times that such an assemblage of local officials had gathered together to review and commit to a plan for setting the tax rate. The exercise of getting these local government stakeholders together at the table was elemental to TAP. The communities set the schedule, which was then entered into a DLS dashboard for review by DLS staff as various check points were reached.

Based on our experience with TAP, DLS heartily recommends that such a meeting take place in every city or town hall, whether or not a community is participating in TAP. Gathering local officials involved in the setting of a tax rate in one place at one time to lay out a schedule establishes communication and accountability, and gets everyone on the same page.

Eight of the 13 TAP communities have responded to an anonymous survey on the program. The [survey results](#) evince considerable support for TAP.

- Asked how they would rate their experience with TAP, seven said excellent and one said good.
- Asked if enrolling in TAP assisted in setting a tax rate earlier, all eight said "yes."
- Asked if they were likely to participate again, five said "very likely" and three said "likely."
- Asked if they would recommend TAP to other communities, all eight said "yes."

Given the program results, reinforced by the survey results, DLS intends to run TAP again this year. Since we have a year's experience and the program template established, enrollment will begin earlier this year and will close on March 30th. This will give communities and their property valuation vendors adequate time to prepare for an earlier schedule for tax rate setting.

Finally, did TAP help to reduce the number of tax rates set in December? Yes. In December 2013, DLS approved 219 of 338 tax rates set by month's end. In December of 2014, DLS approved 188 of 336 tax rates set by month's end. That is 30 fewer tax rates set in December 2014, of which TAP directly contributed to nine.

If you are interested in participating in TAP for the 2016 fiscal year, please call Bob Bliss at 508-792-7300 Ext. 22312 or email me at blissr@dor.state.ma.us.

Ask DLS

This month's *Ask DLS* features frequently asked questions regarding the property tax exemptions available to charitable organizations. Please let us know if you have other areas of interest or send a question to cityandtown@dor.state.ma.us. We would like to hear from you.

Does a charitable organization qualify for a property tax exemption?

The following property of a charitable organization is exempt from local property taxes:

1. All personal property regardless of use.
2. Real property:
 - A.) Owned by, or held in trust for, the charitable organization and occupied by it, or another charitable organization, for charitable purposes;
 - B.) Purchased by the charitable organization with the intention of future relocation and charitable use for no more than two years from the acquisition; or
 - C.) Upon local acceptance, owned by, or held in trust for, a charitable organization for the purpose of creating community housing, as defined in [MGL c. 44B, sec. 2](#), if it was purchased from an entity that acquired it by a mortgage foreclosure sale, until it is rented or sold, but for not more than seven years after the purchase. [MGL c. 59, sec. 5, Clause 3](#).

What is the qualification date for a charitable organization property tax exemption?

Exempt status is determined as of July 1st, which is the first day of the fiscal year. To qualify for an exemption from the taxes assessed for that fiscal year, the charitable organization must meet all eligibility criteria as of that date. [MGL c. 59, sec. 5](#). It is not entitled to a pro-rata exemption for property acquired after July 1st and should ensure that any taxes for that fiscal year are addressed when closing on the acquisition.

What is a charitable organization?

A charitable organization for property tax exemption purposes is a corporation or trust established for literary, benevolent, charitable, or temperance purposes. A limited liability company (LLC), disregarded entity or other non-corporate entity is not eligible for exemption as a charitable organization under [MGL c. 59, sec. 5, Clause 3](#).

The actual work done by the organization must be consistent with its stated charitable purposes and must benefit a sufficiently large or indefinite class such that society at large benefits, i.e., it must operate as a public charity. [Harvard Community Health Plan, Inc. v. Board of Assessors of Cambridge](#), 384 Mass. 536 (1981) and [Cumington School of the Arts, Inc. v. Board of Assessors of Cumington](#), 373 Mass. 597 (1977). Its status as a non-profit corporation under [MGL c. 180](#) or exemption from federal taxes under sec. 501(c)(3) of the Internal Revenue Code is, without more, insufficient to satisfy this requirement. [Western Mass. Lifecare Corp. v. Assessors of Springfield](#), 434 Mass. 96, 102 (2001).

In addition, the organization cannot distribute its income or assets to officers, directors or shareholders, or use them for non-charitable purposes while it operates, i.e., there can be no private inurement. If the organization dissolves, its assets must be distributed to another charity.

What purposes are charitable for property tax exemption purposes under [MGL c. 59, sec. 5, Clause 3](#)?

"A charity...may be more fully defined as a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government." [Boston Symphony Orchestra, Inc. v. Assessors of Boston](#), 294 Mass. 248, 254-255 (1936), quoting [Jackson v. Phillips](#), 96 Mass. 539 (1867). It includes more than almsgiving and assistance to the needy. It includes a wider field of activities for the improvement of man. [Massachusetts Medical Society v. Assessors of Boston](#), 340 Mass. 327, 331 (1960).

Traditional charitable purposes include relief for low-income individuals, medical care, religious works, natural resource conservation, education, and public works. Less traditional charitable purposes

include advancement of arts and sciences, promotion of culture, and providing an essential function for a charity. The further away an organization's purposes are from the traditional understanding of charitable activities, the more strictly it is held to the requirement that its operations primarily benefit a sufficiently large and indefinite class of the public.

An "auxiliary" organization created to raise funds for a related charitable organization or to reduce the overall cost of operation of that related charitable organization by performing a necessary function for it, may qualify as a public charity for exemption purposes. [*Children's Hospital Medical Center v. Board of Assessors of Boston*](#), 353 Mass. 35 (1967).

Can an organization that does charitable work as an incidental or secondary aspect of its mission qualify for a charitable exemption?

No, the dominant purpose of the organization must come within the definition of "charitable." Providing commendable, laudable and socially useful services is not sufficient. [*Western Massachusetts Lifecare Corp. v. Board of Assessors of Springfield*](#), 434 Mass. 96 (2001); [*Jewish Geriatric Services Inc. v. Board of Assessors of Longmeadow*](#), 61 Mass. App. Ct. 73 (2004). In addition, if the organization is created and operated primarily for the mutual improvement of its members, or for social and recreational purposes, it is not a public charity for exemption purposes, even if there is some incidental benefit to the public. [*Massachusetts Medical Society v. Assessors of Boston*](#), 340 Mass. 327 (1960) and [*Boston v. Boston Pilots' Relief Society*](#), 311 Mass. 232 (1942). The dominant purpose of the work governs.

Can organizations that do not serve a large and indefinite class of the public (e.g., due to high fees or user costs or limited membership) be exempt under [MGL c. 59, sec. 5, Clause 3](#)?

An organization with purposes and methods close to the traditional understanding of charitable activity is less likely to forfeit charitable status because it serves a relatively small number of beneficiaries.

There is no precise number of persons who must be served, and at any given moment a small number may be served, but generally membership in the class served must be fluid and must be drawn from a large segment of society or all walks of life. [*Western Massachusetts Lifecare Corp. v. Board of Assessors of Springfield*](#), 434 Mass. 96 (2001). The benefit does not have to be to the people in the community granting the exemption, but to the public generally. [*Board of Assessors*](#)

[of City of Quincy v. Cunningham Foundation](#), 305 Mass. 411 (1940).

A class may be considered limited if it is stable and consists of the same members for a relatively extended period of time, especially where the stability is a result of a membership policy of the organization.

Under what circumstances might private inurement occur for a Chapter 180 non-profit corporation?

A non-profit corporation may pay reasonable salaries for services rendered. However, if payment of salaries or provision of fringe benefits to officers or professional employees operates merely as a device to benefit the officers or distribute profits, a non-profit corporation claiming charitable status would be ineligible for the exemption. [Fisher School v. Assessors of Boston](#), 325 Mass. 529 (1950); [Sturdy Memorial Foundation, Inc. Board of Assessors of North Attleborough](#), 47 Mass. App. Ct. 519 (1999); ([on remand](#)), 60 Mass. App. Ct. 573 (2004).

What information is relevant in determining if an organization is a charitable organization?

Whether an organization is charitable under [MGL c. 59, sec. 5, Clause 3](#) depends upon the specific facts. Assessors may require whatever additional information is reasonably relevant to determining whether the organization's purposes and activities are charitable.

Relevant characteristics include the entity's form of organization, stated purposes, actual operation, persons served and how its income or revenue is spent or distributed. Generally, the purposes of an organization are set forth in its articles of organization and by-laws. A description of its activities and information about its officers and employees can also be derived from the information contained in its public charity filing ([Form PC](#)) with the Office of the Attorney General. Generally, for all charitable exemption applications, such information may include, but is not limited to:

- Articles of incorporation, charter or declaration of trust,
- Organization by-laws,
- Identification of officers, directors or trustees,
- Description of charitable activities,
- Description of the use of the property, including use by all lessees or other occupants,
- Information about compensation arrangements for officers and key employees, and
- Whether the organization has a federal tax exemption under sec.

501(c)(3) of the Internal Revenue Code.

Whose obligation is it to demonstrate qualification for a charitable exemption under [MGL c. 59, sec. 5, Clause 3?](#)

The burden is on the applicant. "Exemption statutes are strictly construed, and the burden lies with the party seeking an exemption to demonstrate that it qualifies according to the express terms or the necessary implication of a statute providing the exemption." [New England Forestry Foundation, Inc. v. Board of Assessors of Hawley](#), 468 Mass. 138, 148 (2014).

Gerry Perry Retires after 31 Years in DOR

Bob Bliss - Director of Strategic Planning and Regional Manager



After 31 years of service in the Department of Revenue (four of them as Division of Local Services Deputy Commissioner and then the last eight as Director of Accounts for the Bureau of Accounts) Gerry Perry has retired.

At a luncheon held at the Saltonstall Building, 100 Cambridge St. in Boston, on January 29, about 75 people wished Perry well as he embarked on his retirement. The gathering included current and past

DLS employees, accountants, financial advisors, representatives from the state Auditor's Office, Attleboro Mayor Kevin Dumas (who read a proclamation in Perry's honor), Perry's wife of nearly 34 years, Joni, and two of his three grown children, daughters Lindsay and Lauren. Son Eric was unable to attend.

Gerry Perry's public service began as an officer and then sergeant with the Nahant Police Department. After doing police work for six years, DOR hired Perry to work in Inspectional Services, which has oversight of integrity matters in the DOR. Gerry recalled that it was former DLS Deputy Commissioner Harry Grossman who asked him to work in DLS after 13 years in Inspectional Services, a decision that Perry said was one of the best he ever made. He was not unfamiliar with DLS, given his various tenures as a local official in his hometown of Swampscott. He served as Finance Committee Chairman from 1985-1990; Capital Improvement Chairman from 1990-1996; Charter Commission Chairman in 2002; and is now in his 28th year as an elected town meeting member.

At his luncheon, Perry said his nearly eight years as Director of Accounts had proven to be an invaluable learning experience. The position, one of just two DOR positions actually set in state statutes - the other being DOR Commissioner - has the authority to set tax rates for the Commonwealth's 351 cities and towns as well as another 150 or so special purpose districts. He noted that DLS has few tools in its regulatory toolbox other than suasion with one exception - the power to withhold the setting of a tax rate. "This is one job where you have to learn, unfortunately, how to say no," Perry observed.

In retirement, Gerry will take time to ski, golf and travel, but he also intends to go back to work in some capacity consulting.

Asked the biggest change he has seen in local governments, Perry said, "Technology has dramatically changed the way we do our business. Without technology we could not do what we do, as you see in most business environments." He recalled that it was while he served as deputy commissioner that DLS eliminated the so-called Cherry Sheets in favor of electronic distribution of local aid.

Gerry offered this advice: "My philosophy to a government official at any level is that, if the official puts the best interest of the entity before themselves, they will always make the right decisions. Do the right thing and things usually work out for the best even though it might not be the most popular decision."

Dave Davies Retires after 28 Years in DOR

Bob Bliss - Director of Strategic Planning and Regional Manager



When Dave Davies started working for the Division of Local Services in Boston, he figured it would be worth a daily commute that on many days took up to four hours.

He was right. For 28 years, first from Providence and then from his home of 24 years in Barrington, RI, Dave made the weekday run - mostly by commuter rail - to Boston, until his last such commute on January 16, when he retired as IT Director for DLS.

While his commute was much shorter when he worked for the City of Providence, he found DLS to be a professional and meritocratic organization that aligned with his vision of helping small town governments adopt and get comfortable with technology as a fundamental part of doing business.

Dave Davies came into information technology in the days when batch computing and punch cards were giving way to personal and minicomputers that required much more knowledge of the the business side of the organization. A History major at Brown University who used mainframes there to analyze trends in urban history, he cut his IT teeth when called upon to automate the Providence Department of Planning and Urban Development and then the mayor's office. Before working in Providence, he was introduced to local government through work done with municipal advocacy associations in Connecticut and Rhode Island.

In retirement, he now gets to spend more time with his wife Jaffa, their grown sons Benjamin and Ari, and a grandchild who lives with Benjamin and his wife in Somerville.

Dave Davies could arguably be called the father of the DLS Gateway software system, the program that captures a vast array of financial data submitted by cities and towns to DLS. "For many years, I saw a clear need to have a system and database shared by local officials and their state oversight agency using the Internet. But we had to wait for the right opportunity to attempt doing a lot with very little. With some leftover Y2K funds, we got our chance and took it. While I may have conceived and pushed for Gateway early on, it took a huge team effort, steady executive support, solid vendors, and responsive local officials to pull it off. That it has far exceeded its original objectives in increasing efficiency and transparency at both state and local levels is immensely satisfying."

Dave's stint at DLS extended long enough for him to see work start on Gateway 2.0, a three-year project that will rebuild the guts of Gateway while keeping its familiar look and feel to end users. "My hope for Gateway 2.0 is twofold: that up-to-date technology will safeguard it and that it establishes the foundation for a whole new level of efficiency and collaboration between DLS and cities and towns.

"What I spent most of my years working on in Massachusetts was helping small town government adapt to and take advantage of various technologies. Towns have gone from no computers to all the issues and concerns of larger organizations. The increasing cost and complexity have been a constant challenge in recent years. The single largest challenge to small town IT is the lack of people to manage it on a day to day basis," Davies said, calling for much more regionalization and centralization of these functions.

Asked who he would nominate as most responsible for setting DLS on a forward path with IT, Davies identified the late Edward J. Collins Jr., former DOR Deputy Commissioner of Local Services. "He planted the seeds for more effective workflows, tracking and automation in working with cities and towns," Davies said.

Looking back at his DLS career, Davies said "I highly value the friendships and collaboration among many different types of local officials as well as with colleagues within DOR and other state agencies." And looking to the future, he added: "I look forward to opportunities to remain involved with Massachusetts local government in special projects built around innovative ideas. But I'll try to leave time

for some fun as well."

Final 2014 Equalized Valuations

On January 29th, 2015 the [Bureau of Local Assessment](#) issued the final 2014 Equalized Valuations (EQVs), representing the full and fair cash value of all taxable property for each municipality as of January 1st, 2014.

These EQVs will be used as a basis of comparison among the 351 municipalities within the Commonwealth for certain state and local purposes beginning in fiscal year 2016. Specifically, EQV is used in the allocation of local aid such as Chapter 70 education aid, the reimbursement of school construction projects, and aid to libraries. Certain Cherry Sheet charges also use EQV: County Tax, Boston Metropolitan Transit District, Mosquito Control Projects and Air Pollution Control Districts. In addition, EQV is used in calculating a community's debt limit (MGL ch.44, sect.10).

EQVs are available on the DLS website [here](#).

Motor Vehicle Excise Exemptions for Veterans - Revised RMV Procedures

The Division of Local Services has posted on its website [Bulletin 2015-01B](#) which advises Boards of Assessors about a recent change in Registry of Motor Vehicles (RMV) procedures regarding veterans who the Medical Advisory Board (MAB) determined have permanent service-connected disabilities and are eligible for a disabled veteran (DV) plate. Veterans who the MAB has determined to have a permanent service-connected disability are eligible for a motor vehicle excise exemption on one vehicle used for non-commercial purposes. The MAB is now issuing a letter advising the veteran it has made the required determination and giving the veteran the option to be issued a DV plate. Previously, the veteran was just issued a DV plate, and therefore, had to have the plate in order to establish he or she qualified for the exemption. Due to this change in procedure, however, a veteran may now establish eligibility for the exemption by (1) providing the assessors with a copy of the MAB determination of permanent service-connected disability or (2) having a DV plate on the vehicle.

February Municipal Calendar

February 1	Taxpayer	Deadline for Payment of 3rd Quarterly Tax Bill Without Interest According to MGL Ch. 59, Sec. 57C, this is the deadline for receipt of the 3rd Quarter actual tax payment without interest, unless the actual tax bills were mailed after December 31st. If mailed after December 31st, the actual tax is due as a single installment on May 1st, or 30 days after the bills were mailed, whichever is later.
February 1	Taxpayer	Quarterly Tax Bills Application Deadline for Property Tax Abatement According to MGL Ch. 59, Sec. 59, applications for abatements are due on Feb. 1st unless actual tax bills were mailed after December 31st. In that case they are due May 1st, or 30 days after mailing, whichever is later.
February 28	Finance Committee	Continue Budget Review and Develop Recommendations This date will vary depending on dates of town meeting.
Final Day of Each Month	State Treasurer	Notification of monthly local aid distribution. Click www.mass.gov/treasury/cash-management to view distribution breakdown.

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